

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**NOEL FREEMAN and WILLIAM BRADLEY PRITCHETT, a married couple;  
YADIRA ESTRADA and JENNIFER FLORES, a married couple; and  
RONALD REESER and VINCENT OLIVIER, a married couple.**

*Plaintiffs,*

**V.**

**SYLVESTER TURNER, in his official capacity  
as Mayor of the City of Houston;  
THE CITY OF HOUSTON, a Texas municipality;  
JACK PIDGEON; and LARRY HICKS**

***Defendants.***

**CASE NO. 4:17-cv-02448**

**THE CITY OF HOUSTON AND MAYOR SYLVESTER TURNER'S MOTION TO  
EXTEND TIME TO FILE ORIGINAL ANSWER AND RESPONSE TO MOTION FOR  
PRELIMINARY INJUNCTION**

Mayor, Sylvester Turner (Turner) and the City of Houston (Houston) (collectively, Defendants), ask the Court to extend the time to file their Original Answer to Plaintiffs' Complaint [Dkt. No. 1] and Response to Motion for Preliminary Injunction [Dkt. No. 7] as authorized by Federal Rule of Civil Procedure 6(b).

## I. NATURE AND STATE OF PROCEEDINGS

Plaintiffs, employees of the City of Houston and their spouses, have sued Houston and Turner for declaratory and injunctive relief to prevent Houston from withdrawing spousal employment benefits to Plaintiffs. Plaintiffs have sought a preliminary injunction, which was originally set for submission on August 31, 2017 [Dkt. No. 7].

Defendants' answer date was September 1, 2017 and its deadline to respond to the Motion for Preliminary Injunction was August 31, 2017.

Due to Hurricane Harvey, courts in the Southern District of Texas were inaccessible from August 28, 2017 through September 1, 2017. *See* Amended Order Finding that the Clerk's Office and the Courthouse Are Inaccessible, August 30, 2017. September 2 and 3, 2017 were a Saturday and Sunday and September 4, 2017 was a legal holiday. Therefore, Defendants' deadlines for both their Original Answer and their Response to the Motion for Preliminary Injunction are September 5, 2017. Fed. R. Civ. P. 6(3)(A).

## **II. ISSUE PRESENTED AND STANDARD OF REVIEW**

Defendants seek an extension of time to file their Original Answer and Response to Motion for Preliminary Injunction. A court may grant a request to extend time for good cause. Fed. R. Civ. P. 6(b)(1)(A).

## **III. ARGUMENT AND AUTHORITIES**

Defendants request an extension of time to file their Original Answer and Response to Motion for Preliminary Injunction because the Defendants and their counsel were impacted by Hurricane Harvey from August 27-September 4, 2017 and were unable to prepare the Original Answer and Response prior to the original deadlines. The attorneys' offices at the City of Houston were closed during this time period and without power for much of the time. Counsel could not access the office or documents in the City's electronic document system until September 5, 2017.

In addition, counsel have had and currently have other deadlines that prevent their being able to complete the Original Answer and Response timely. These include:

- a. *Gutkowski v. City of Houston*, No. 14-17-00234-CV, in the Fourteenth Court of Appeals, Reply Brief filed **August 25, 2017**.

- b. *Pidgeon v. Parker*, No. 15-0688, in the Texas Supreme Court, motion for rehearing to Texas Supreme Court or petition for writ of certiorari to United States Supreme Court due to be filed by **September 15, 2017**;
- c. *Estrada v. City of Houston*, No. 2004-23665, in the 129th Judicial District Court of Harris County, Texas, motion for summary judgment, filed **July 17, 2017**, and reply to Plaintiffs' response to motion, filed **August 14, 2017**; preparation for trial, set for **September 18, 2017**.
- d. *Pidgeon v. Parker*, No. 2014-61812; in the 310<sup>th</sup> Judicial District Court of Harris County, Texas; trial set for **October 2, 2017**.

Finally, counsel for Defendants Turner and Houston were personally impacted by the flooding resulting from Hurricane Harvey. One of the Defendants' attorneys experienced flooding in her home, and others were involved in assisting friends, family, and others in responding to the flooding during the week of August 28-September 4, 2017. Defendants filed this motion as soon as possible after it became clear an extension was needed.

Counsel for Plaintiffs and for Defendants Pidgeon and Hicks **do not oppose** this motion for extension of time.

Defendants request this extension for good cause and not for delay. *See* Fed. R. Civ. P. 6(b)(1)(A). The Affidavit of Kathleen Hopkins Alsina is attached in support of this motion.

#### **IV. CONCLUSION AND RELIEF REQUESTED**

For the reasons stated, Defendants asks the Court for an extension of time until **September 13, 2017** to file their Response to the Motion for Preliminary Injunction [Dkt. No. 7], and until **September 15, 2017** to file their Original Answer to Plaintiffs' Complaint [Dkt. No. 1].

Respectfully submitted,

CITY OF HOUSTON LEGAL DEPARTMENT

By: /s/ Patricia L. Casey

Patricia L. Casey  
Senior Assistant City Attorney  
State Bar No.: 03959075  
Federal Id.: 8001  
[pat.casey@houstontx.gov](mailto:pat.casey@houstontx.gov)  
900 Bagby, 4th Floor  
Houston, Texas 77002  
832.393.6302 – Telephone  
832.393.6259 – Facsimile

***Attorney in Charge for Defendants  
Sylvester Turner and the City of Houston***

OF COUNSEL:

RONALD L. LEWIS  
City Attorney  
JUDITH L. RAMSEY  
Chief, General Litigation Section  
Kathleen Hopkins Alsina  
Senior Assistant City Attorney  
State Bar No.: 09977050  
Federal Id.: 9014  
[kate.alsina@houstontx.gov](mailto:kate.alsina@houstontx.gov)

CITY OF HOUSTON LEGAL DEPARTMENT  
900 Bagby, 4th Floor  
Houston, Texas 77002  
832.393.6459 – Telephone  
832.393.6259 – Facsimile

### CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2017, a true and correct copy of the foregoing has been served on counsel below via e-service.

Kenneth D. Upton, Jr.  
Attorney in Charge  
Texas State Bar No. 00797972  
Southern District Fed. ID No. 635808  
LAMBDA LEGAL DEFENSE AND EDUCATION FUND  
[kupton@lambdalegal.org](mailto:kupton@lambdalegal.org)  
3500 Oak Lawn Avenue, Suite 500  
Dallas, Texas 75219-6722  
Telephone: 214.219.8585  
Facsimile: 214.219.4455

Susan Sommer  
*Pro hac vice*  
[ssommer@lambdalegal.org](mailto:ssommer@lambdalegal.org)  
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.  
120 Wall Street, 19th Floor  
New York, NY 10005  
Telephone: 212.809.8585  
Facsimile: 212.809.0055

Benjamin D. Williams  
Texas State Bar No. 24072517  
Southern District Fed. ID No. 1447500  
[benjamin.williams@morganlewis.com](mailto:benjamin.williams@morganlewis.com)  
Stefanie R. Moll  
Texas State Bar No. 24002870  
Southern District Fed. ID No. 22861  
[stefanie.moll@morganlewis.com](mailto:stefanie.moll@morganlewis.com)  
MORGAN LEWIS & BOCKIUS, LLP  
1000 Louisiana Street, Suite 4000  
Houston, Texas 77002  
Telephone: 713.890.5000  
Facsimile: 713.890.5001

Susan Baker Manning  
*Pro hac vice*  
[susan.manning@morganlewis.com](mailto:susan.manning@morganlewis.com)  
MORGAN LEWIS & BOCKIUS, LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
Telephone: 202.739.6000  
Facsimile: 202.373.6412

***Attorneys for Plaintiffs Noel Freeman, William Bradley Pritchett, Yadira Estrada, Jennifer Flores, Ronald Reeser and Vincent Olivier***

Jared R. Woodfill  
State Bar No. 00788715  
WOODFILL LAW FIRM, PC  
3 Riverway, Suite 750  
Houston, Texas 77056  
Telephone: 713.751.3080  
Facsimile: 713.751.3058  
[jwoodfill@woodfilllaw.com](mailto:jwoodfill@woodfilllaw.com)

***Attorneys for Defendants Jack Pidgeon and Larry Hicks***

/s/ Kathleen Hopkins Alsina

Kathleen Hopkins Alsina

### **CERTIFICATE OF CONFERENCE**

I certify that on August 31, 2017, Judith L. Ramsey, co-counsel for Defendants, conferred by email with Susan Sommer in the office of counsel for Plaintiffs and she agreed to this extension. On September 5, 2017, Kenneth D. Upton, Jr., attorney in charge for Plaintiffs, confirmed the agreement.

I further certify that co-counsel for Defendants, Kathleen Hopkins Alsina, conferred by email on September 4, 2017 with Jared R. Woodfill, Counsel for Defendants Pidgeon and Hicks, and he does not oppose the extension.

/s/ Kathleen Hopkins Alsina

Kathleen Hopkins Alsina

STATE OF TEXAS           §  
   §  
COUNTY OF HARRIS       §

**AFFIDAVIT OF KATHLEEN HOPKINS ALSINA**

Before me, the undersigned authority, on this day personally appeared KATHLEEN HOPKIN ALSINA, who, being by me duly sworn, deposed as follows:

“My name is Kathleen Hopkin Alsina. I am competent and of sound mind, capable of making this affidavit, and the facts stated herein are within my personal knowledge and are true and correct.

Defendants Sylvester Turner and City of Houston and their counsel were impacted by Hurricane Harvey from August 27-September 4, 2017 and were unable to prepare the Original Answer to Plaintiffs’ Complaint [Dkt. No. 1] and Response to Motion for Preliminary Injunction [Dkt. No. 7] prior to the original deadlines on August 31 and September 1, 2017. Offices of counsel for the City of Houston were closed and without power during this time period. Counsel could not access the office or documents in the City’s electronic document system until September 5, 2017.

In addition, counsel for Defendants were personally impacted by the flooding. The undersigned attorney for Defendant experienced flooding in her home, and others were involved in assisting friends, family, and others in responding to the flooding during the week of August 28-September 4, 2017.

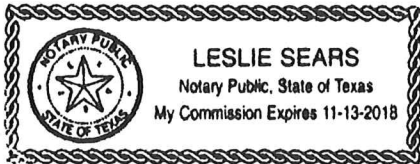
In addition, lead counsel Patricia Casey and the undersigned had and have other deadlines that prevented them from being able to devote sufficient time for preparation of the Original Answer and the Response to the Motion for Preliminary Injunction prior to the original deadlines on August 31 and September 1, 2017. These include the following:

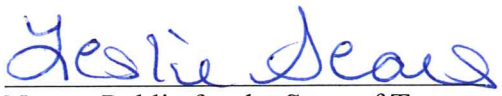
- a. *Gutkowski v. City of Houston*, No. 14-17-00234-CV, in the Fourteenth Court of Appeals, Reply Brief filed August 25, 2017.
- b. *Pidgeon v. Parker*, No. 15-0688, in the Texas Supreme Court, motion for rehearing to Texas Supreme Court or petition for writ of certiorari to United States Supreme Court due to be filed by September 15, 2017;
- c. *Estrada v. City of Houston*, No. 2004-23665, in the 129th Judicial District Court of Harris County, Texas, motion for summary judgment, filed July 17, 2017, and reply to Plaintiffs’ response to motion, filed August 14, 2017; preparation for trial, set for September 18, 2017.
- d. *Pidgeon v. Parker*, No. 2014-61812; in the 310<sup>th</sup> Judicial District Court of Harris County, Texas; trial set October 2, 2017.

Further Affiant sayeth not.”

  
Kathleen Hopkins Alsina

**SWORN TO BEFORE ME**, the undersigned authority, appeared Kate H. Alsina on September 5, 2017, in Houston, Harris County, Texas.



  
Notary Public for the State of Texas